

that he would be filing a motion for default and would not consent to this motion. On September 23, 2009, plaintiff filed such motion, which has not been reached by the Clerk of this court prior to the filing of the instant motion.

Inasmuch as the present motion is contested, plaintiff has 14 days within which to file a response. The court will await either plaintiff's response or a notice that it does not intend to respond. If it elects to respond, counsel for plaintiff is advised that the court will be guided, as it has in the past, by Pioneer Investment Services Co. v. Brunswick Assoc. Ltd. Partnership, 507 U.S. 380 (1993), which held that while misunderstanding or rules is not usually a basis for excusable neglect, " 'excusable neglect' may extend to inadvertent delays . . ." and "that 'excusable neglect' under Rule 6(b) is a somewhat 'elastic concept' and is not limited strictly to omissions caused by circumstances beyond the control of the movant." Id., at 391. See also Lolatchy v. Arthur Murray, Inc., 816 F.2d 951, 954 (4th Cir. 1987) (citation omitted)(addressing the disfavor in which the courts of the Fourth Circuit hold judgments reached by default).

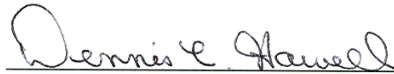
ORDER

IT IS, THEREFORE, ORDERED that North American Specialty Insurance Company's Motion for Extension of Time to Answer or Otherwise Plead (#24) is **HELD IN ABEYANCE** pending a response from plaintiff or notice that it does not

intend to respond.

IT IS FURTHER ORDERED that plaintiff's Motion for Entry of Default is **HELD IN ABEYANCE** as to North American Specialty Insurance Company pending resolution of such defendant's Motion for Extension of Time to Answer or Otherwise Plead.

Signed: September 29, 2009



Dennis L. Howell
United States Magistrate Judge

